

**REPORT OF THE AUDIT OF THE  
BREATHITT COUNTY  
SHERIFF**

**For The Year Ended  
December 31, 2008**



**CRIT LUALLEN  
AUDITOR OF PUBLIC ACCOUNTS  
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## **EXECUTIVE SUMMARY**

### **AUDIT EXAMINATION OF THE BREATHITT COUNTY SHERIFF**

**For The Year Ended  
December 31, 2008**

The Auditor of Public Accounts has completed the Breathitt County Sheriff's audit for the year ended December 31, 2008. Based upon the audit work performed, the financial statement presents fairly, in all material respects, the revenues, expenditures, and excess fees in conformity with the regulatory basis of accounting.

#### **Financial Condition:**

Excess fees increased by \$41,896 from the prior year, resulting in excess fees of \$123,194 as of December 31, 2008. Revenues increased by \$189,029 from the prior year and expenditures increased by \$147,133.

#### **Report Comments:**

- 2008-1 The Former Bookkeeper Was Overpaid \$7,609 For 2007 and 2008
- 2008-2 Accounting Records And Checks Appear To Have Been Manipulated And Falsified, Resulting In Missing Monies In Excess Of \$2,300
- 2008-3 The Sheriff Paid Cash Advances In Excess Of \$6,100 For Unearned Salary Benefits
- 2008-4 The Sheriff Should Pay Overtime At A Rate Of Time And One Half
- 2008-5 The Sheriff Should Maintain Proper Personnel Files And Monitor Payroll For Accurate Compensation
- 2008-6 The Sheriff Should Prepare Accurate Payroll Reports And Pay Withholdings In A Timely Manner
- 2008-7 The Sheriff Should Properly Account For Retirement
- 2008-8 The Sheriff Should Correct State And Federal Withholding Errors
- 2008-9 The Sheriff Should Comply With Applicable Laws And Regulations Over Payroll
- 2008-10 The Sheriff Had \$122 In Disallowed Expenditures In His 2008 Fee Account
- 2008-11 The Sheriff Should Require Employees Handling Public Funds To Be Bonded
- 2008-12 The Sheriff Should Abide By The County's Code Of Ethics
- 2008-13 The Sheriff Should Accurately Report Employees To Insurance Providers
- 2008-14 The Sheriff's Office Lacks Adequate Segregation Of Duties
- 2008-15 The Sheriff Should Closely Monitor The Daily Activities Of His Office

#### **Deposits:**

The Sheriff's deposits as of November 10, 2008 were exposed to custodial credit risk as follows:

- Uncollateralized and Uninsured \$1,251,548

The Sheriff's deposits were covered by FDIC insurance and a properly executed collateral security agreement, but the bank did not adequately collateralize the Sheriff's deposits in accordance with the security agreement.



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CRIT LUALLEN  
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Harvey J. Richardson, Breathitt County Judge/Executive  
The Honorable Ray Clemons, Breathitt County Sheriff  
Members of the Breathitt County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of revenues, expenditures, and excess fees - regulatory basis of the Sheriff of Breathitt County, Kentucky, for the year ended December 31, 2008. This financial statement is the responsibility of the Sheriff. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the Sheriff's office prepares the financial statement on a regulatory basis of accounting that demonstrates compliance with the laws of Kentucky, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues, expenditures, and excess fees of the Sheriff for the year ended December 31, 2008, in conformity with the regulatory basis of accounting described in Note 1.

In accordance with Government Auditing Standards, we have also issued our report dated July 7, 2009 on our consideration of the Breathitt County Sheriff's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.



The Honorable Harvey J. Richardson, Breathitt County Judge/Executive  
The Honorable Ray Clemons, Breathitt County Sheriff  
Members of the Breathitt County Fiscal Court

Based on the results of our audit, we have presented the accompanying comments and recommendations, included herein, which discusses the following report comments:

- 2008-1 The Former Bookkeeper Was Overpaid \$7,609 For 2007 and 2008
- 2008-2 Accounting Records And Checks Appear To Have Been Manipulated And Falsified, Resulting In Missing Monies In Excess Of \$2,300
- 2008-3 The Sheriff Paid Cash Advances In Excess Of \$6,100 For Unearned Salary Benefits
- 2008-4 The Sheriff Should Pay Overtime At A Rate Of Time And One Half
- 2008-5 The Sheriff Should Maintain Proper Personnel Files And Monitor Payroll For Accurate Compensation
- 2008-6 The Sheriff Should Prepare Accurate Payroll Reports And Pay Withholdings In A Timely Manner
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- 2008-13 The Sheriff Should Accurately Report Employees To Insurance Providers
- 2008-14 The Sheriff's Office Lacks Adequate Segregation Of Duties
- 2008-15 The Sheriff Should Closely Monitor The Daily Activities Of His Office

This report is intended solely for the information and use of the Sheriff and Fiscal Court of Breathitt County, Kentucky, and the Commonwealth of Kentucky and is not intended to be and should not be used by anyone other than these interested parties.

Respectfully submitted,



Crit Luallen  
Auditor of Public Accounts

July 7, 2009



BREATHITT COUNTY  
RAY CLEMONS, SHERIFF  
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2008

Revenues

State:

Kentucky Law Enforcement Foundation Program Fund	\$ 4,094		
Sheriff Security Service	60,559	\$	64,653

Circuit Court Clerk:

Fines and Fees Collected			1,007
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Fiscal Court			262,734
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County Clerk - Delinquent Taxes			1,032
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Commission On Taxes Collected			160,170
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Other Fees On Taxes Collected			37,379
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Fees Collected For Services:

Auto Inspections	858		
Serving Papers	26,146		
Carrying Concealed Deadly Weapon Permits	2,675	29,679	

Other:

Transporting Prisoners	17,182		
Miscellaneous	8,285	25,467	

Interest Earned			160
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Total Revenues			582,281
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Expenditures

Operating Expenditures and Capital Outlay:

Personnel Services-

Deputies' Salaries	144,345
Employer's Share Social Security	15,025
Employer's Share Retirement	44,260
Employer Paid Health Insurance	16,923
Employer Paid Workers Compensation Insurance	13,287
Employer Paid Unemployment Insurance	9,046

The accompanying notes are an integral part of this financial statement.

BREATHITT COUNTY  
 RAY CLEMONS, SHERIFF  
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS  
 For The Year Ended December 31, 2008  
 (Continued)

Expenditures (Continued)

Operating Expenditures and Capital Outlay (Continued):

Contracted Services-		
Advertising	\$	4,686
Contract Labor		2,050
Vehicle Maintenance and Repairs		16,491
Materials and Supplies-		
Office Materials and Supplies		9,935
Uniforms		6,264
Other Charges-		
Transporting Prisoners		1,280
Carrying Concealed Deadly Weapons		1,470
Tax and Fee Audits		2,500
Gasoline		45,391
Telephones		7,154
Computer Expense		7,697
Vehicle Insurance		4,836
Law Enforcement Liability Insurance		16,772
Miscellaneous		12,853
		<u>\$ 382,265</u>
Capital Outlay:		
Vehicles		<u>6,448</u>
Total Expenditures		<u>388,713</u>
Less: Disallowed Expenditures		
Penalties and Interest		<u>122</u>
Total Disallowable Expenditures		<u>122</u>
Total Allowable Expenditures		<u>388,591</u>
Net Revenues		193,690
Less: Sheriff's Salary		<u>70,496</u>
Excess Fees Due County for 2008		123,194
Payments to Fiscal Court - January 9, 2009	25,000	
February 12, 2009	95,707	
May 1, 2009	1,548	
June 17, 2009	817	
		<u>123,072</u>
Balance Due Fiscal Court at Completion of Audit		<u>\$ 122</u>

The accompanying notes are an integral part of this financial statement.

BREATHITT COUNTY  
NOTES TO FINANCIAL STATEMENT

December 31, 2008

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of revenues over expenditures to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the Sheriff as determined by the audit. KRS 134.310 requires the Sheriff to settle excess fees with the fiscal court at the time he files his final settlement with the fiscal court.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Under this regulatory basis of accounting revenues and expenditures are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive) at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2008 services
- Reimbursements for 2008 activities
- Tax commissions due from December tax collections
- Payments due other governmental entities for payroll
- Payments due vendors for goods or services provided in 2008

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the Sheriff's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

BREATHITT COUNTY  
 NOTES TO FINANCIAL STATEMENT  
 December 31, 2008  
 (Continued)

Note 2. Employee Retirement System

The county officials and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a cost-sharing, multiple-employer, defined benefit pension plan that covers all eligible full-time employees and provides for retirement, disability, and death benefits to plan members.

Benefit contributions and provisions are established by statute. Nonhazardous covered employees are required to contribute 5.0 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 16.17 percent for the first six months and 13.50 percent for the last six months of the year. Hazardous covered employees are required to contribute 8 percent of their salary to the plan. The county's contribution rate for hazardous employees was 33.87 percent for the first six months and 29.50 percent for the last six months of the year.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65. Aspects of benefits for hazardous employees include retirement after 20 years of service or age 55.

Historical trend information pertaining to CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report which is a matter of public record. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The Breathitt County Sheriff maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the Sheriff and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the Sheriff's deposits may not be returned. The Breathitt County Sheriff does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 41.240(4). As of December 31, 2008, all deposits were covered by FDIC insurance or a properly executed collateral security agreement. However, as of November 10, 2008, public funds were exposed to custodial credit risk because the bank did not adequately collateralize the Sheriff's deposits in accordance with the security agreement.

- Uncollateralized and Uninsured                      \$1,251,548

BREATHITT COUNTY  
NOTES TO FINANCIAL STATEMENT  
December 31, 2008  
(Continued)

Note 4. State Grant - Kentucky Law Enforcement Foundation Program Fund (KLEFPF)

The Breathitt County Sheriff's office was awarded a grant under the Kentucky Law Enforcement Foundation Program Fund (KLEFPF) from the Commonwealth of Kentucky Department of Criminal Justice Training. Under the program, eligible officers received up to \$3,100 annually as provided in KRS 15.460. During calendar year ended December 31, 2008, the Breathitt County Sheriff's office received \$4,093. All funds received were expended for their intended purpose.

Note 5. Asset Forfeiture Account

The former Breathitt County Sheriff's office received forfeiture proceeds from a court order and established an Asset Forfeiture Account. These funds are to be used for law enforcement expenses. On January 1, 2007, the beginning balance in the Asset Forfeiture Account was \$247. The former Sheriff closed the Asset Forfeiture Account in August 2007 by paying the entire balance to Breathitt County Fiscal Court. As of December 31, 2008 the balance in the Asset Forfeiture Account was \$0. The current Sheriff requested a refund of the entire \$247 from fiscal court and reestablished an Asset Forfeiture Account on June 17, 2009.

Note 6. Body Armor Grant Account

The Breathitt County Sheriff's office received an award under the Kentucky Body Armor Program. The funds received are to be used to purchase bulletproof vests for the Sheriff's Department. The beginning balance in the Body Armor Grant Account totaled \$784, interest receipts totaled \$2 and bank fees totaled \$88. The Body Armor Grant Account balance as of December 31, 2008 totaled \$698.

Note 7. Related Party Transactions

There were three related party transactions:

1. The Breathitt County Sheriff paid \$950 to the husband of a Deputy Clerk for three days contract labor to remodel the Sheriff's office.
2. The Breathitt County Sheriff paid \$600 to a brother-in-law of a Deputy Clerk for three days contract labor to remodel the Sheriff's office.
3. The Breathitt County Sheriff paid \$500 to the son of the bookkeeper for three days contract labor to remodel the Sheriff's office.

Note 8. Subsequent Events

The Sheriff issued a check to a county employee's mother from his 2009 fee account, for a vehicle damaged during a police chase. This vehicle was totaled when a perpetrator collided into it during a police chase involving a Breathitt County Volunteer Deputy. The County's insurance provider would not cover the loss since it was the perpetrator's vehicle that hit her car rather than one of the Sheriff's cruisers. Since the perpetrator did not have personal vehicle insurance, the Sheriff paid the owner the NADA book value of the totaled vehicle.

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REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND  
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL  
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS







CRIT LUALLEN  
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Harvey J. Richardson, Breathitt County Judge/Executive  
The Honorable Ray Clemons, Breathitt County Sheriff  
Members of the Breathitt County Fiscal Court

Report On Internal Control Over Financial Reporting And  
On Compliance And Other Matters Based On An Audit Of The Financial  
Statement Performed In Accordance With Government Auditing Standards

We have audited the statement of revenues, expenditures, and excess fees - regulatory basis of the Breathitt County Sheriff for the year ended December 31, 2008, and have issued our report thereon dated July 7, 2009. The Sheriff's financial statement is prepared in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Breathitt County Sheriff's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Sheriff's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Sheriff's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and would not necessarily identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses. However as discussed below, we identified certain deficiencies in internal control over financial reporting that we consider to be significant deficiencies.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with the regulatory basis of accounting which is a basis of accounting other than generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statement that is more than inconsequential will not be prevented or detected by the entity's internal control over financial reporting. We consider the deficiencies described in the accompanying comments and recommendations as items 2008-14 and 2008-15, to be significant deficiencies in internal control over financial reporting.



Report On Internal Control Over Financial Reporting And  
On Compliance And Other Matters Based On An Audit Of The Financial  
Statement Performed In Accordance With Government Auditing Standards  
(Continued)

Internal Control Over Financial Reporting (Continued)

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statement will not be prevented or detected by the entity's internal control. Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in the internal control that might be significant deficiencies and, accordingly, would not necessarily disclose all significant deficiencies that are also considered to be material weaknesses. However, we consider the significant deficiencies described above to be material weaknesses.

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Breathitt County Sheriff's financial statement for the year ended December 31, 2008, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under Government Auditing Standards and which are described in the accompanying comments and recommendations as items 2008-1, 2008-2, 2008-3, 2008-4, 2008-5, 2008-6, 2008-7, 2008-8, 2008-9, 2008-10, 2008-11, 2008-12 and 2008-13.

The Breathitt County Sheriff's responses to the findings identified in our audit are included in the accompanying comments and recommendations. We did not audit the Sheriff's responses and, accordingly, we express no opinion on them.

This report is intended solely for the information and use of management, the Breathitt County Fiscal Court, and the Department for Local Government and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,



Crit Luallen  
Auditor of Public Accounts

July 7, 2009

## COMMENTS AND RECOMMENDATIONS



BREATHITT COUNTY  
RAY CLEMONS, SHERIFF  
COMMENTS AND RECOMMENDATIONS

For The Year Ended December 31, 2008

STATE LAWS AND REGULATIONS:

2008-1    The Former Bookkeeper Was Overpaid \$7,609 For 2007 and 2008

During our review of payroll, we found the former bookkeeper was overpaid. Interviews with the Sheriff and the former bookkeeper revealed there was a verbal agreement on January 2, 2007, establishing the former bookkeeper would be compensated at a rate the same as her predecessor, which was \$37,442 a year. A review of the Kentucky Retirement Systems Personnel Action form, effective January 1, 2007, stated that the former bookkeeper should receive an annual salary of \$42,432. However, for 2007, the former bookkeeper was compensated \$47,268. We referred this matter to the County Attorney and to the Breathitt County Fiscal Court to determine how much the former bookkeeper should have been compensated. It was established that the former bookkeeper should have received \$42,432 for 2007 and a monthly income of \$3,536 for each of the seven months she worked during 2008. Therefore, the former bookkeeper was overcompensated \$4,836 for 2007.

During our audit of the 2008 fee account, we noted the former bookkeeper received \$27,524 during the seven months she worked in 2008. At the established monthly income of \$3,536, she should have received \$24,572, resulting in an overpayment of \$2,773. Therefore, the former bookkeeper was overpaid a total of \$7,609 for 2007 and 2008 (which includes the \$2,305 salary advances discussed in comment 2008-3).

The former bookkeeper was responsible for payroll and financial reporting functions. The Sheriff's policy for salary payment is to pay employees for 26 pay periods a year or bi-weekly. However, the former bookkeeper received 44 paychecks during 2007 and 29 paychecks during the seven months she worked in 2008.

We recommend the Sheriff's office follow policies concerning payroll as established by the Sheriff. We also recommend the Sheriff provide strong oversight of payroll. We will refer this matter to the County Attorney and to Breathitt County Fiscal Court to determine if legal action is necessary to recover any salary due fiscal court from the former bookkeeper.

*Sheriff's Response: Overpayment of salary for the former bookkeeper has been referred to the County Attorney and the Fiscal Court for their determination of any action necessary to recover the overpayment of \$7,609.00. The Sheriff has hired a new bookkeeper that is adhering to all payroll policies.*

BREATHITT COUNTY  
 RAY CLEMONS, SHERIFF  
 COMMENTS AND RECOMMENDATIONS  
 For The Year Ended December 31, 2008  
 (Continued)

STATE LAWS AND REGULATIONS: (Continued)

2008-2 Accounting Records And Checks Appear To Have Been Manipulated And Falsified, Resulting In Missing Monies In Excess Of \$2,300

During 2008, accounting records and checks appear to have been manipulated and falsified, resulting in missing monies totaling \$2,316. Test procedures revealed two checks that appear to have been altered and cashed after the Sheriff signed them. One check, in the amount of \$1,691, was originally made payable to a local bank. The Sheriff signed this check authorizing the payment of federal tax withholdings to the local bank that collects and distributes monies to the Internal Revenue Service. The check appears to have been altered and made payable to a former employee of the Sheriff's office. The former employee endorsed the check and cashed it later that day. A second check, in the amount of \$625, was originally made payable to a computer service vendor. The Sheriff signed this check authorizing payment of an attached invoice for services rendered by the computer service vendor. Auditors confirmed the attached invoice was falsified and no additional payments were due the computer service vendor. After the Sheriff signed the check, it appears to have been altered and made payable to the former employee. The former employee endorsed the check and cashed it later that day. Both checks were recorded in the disbursements ledger as payments to the original vendors, concealing the cash received by the former employee. If the Sheriff had compared cancelled checks on the bank statements to amounts posted on the disbursements ledger or completed bank reconciliations monthly, the altered checks could have been detected or prevented.

In order to prevent future manipulation or falsification, we recommend the Sheriff establish adequate segregation of duties. If adequate segregation of duties is not possible due to limited number of staff in the office, we recommend the Sheriff implement compensating controls. These controls should be performed on a frequent basis in order to be effective. We have referred this matter to the Kentucky State Police, the Attorney General's Office, and to the County Attorney.

*Sheriff's Response: The Sheriff's office has filed charges against the former bookkeeper for falsification of records and stolen monies. The Sheriff is working closely with the new bookkeeper more frequently. The assistant tax collector works very closely with the bookkeeper. They have a very good system of checking each others work. The new bookkeeper has made many changes in the organization of the office, therefore, improving filing and record keeping duties. The actions of the former bookkeeper have been referred to the Kentucky State Police, the Attorney General's Office and to the County Attorney.*

2008-3 The Sheriff Paid Cash Advances In Excess Of \$6,100 For Unearned Salary Benefits

KRS 64.535 states, "The county judge/executive, clerk, jailer who operates a full service jail, and sheriff shall each receive a monthly salary of one-twelfth (1/12) of the amount indicated by the salary schedule in KRS 64.5275," prohibiting cash advances of unearned salary benefits. The Sheriff received a total of \$100 for unearned salary benefits during CY08 that was repaid during the year. Also, the Sheriff's bookkeeper received a total of \$4,405 for unearned salary benefits. Of the \$4,405, \$1,005 was not repaid and is due to the Breathitt County Fiscal Court.

BREATHITT COUNTY  
 RAY CLEMONS, SHERIFF  
 COMMENTS AND RECOMMENDATIONS  
 For The Year Ended December 31, 2008  
 (Continued)

STATE LAWS AND REGULATIONS: (Continued)

2008-3 The Sheriff Paid Cash Advances In Excess Of \$6,100 For Unearned Salary Benefits (Continued)

This amount is in addition to the \$1,300 the bookkeeper received during CY07 for unearned salary benefits which has not been repaid, resulting in a total of \$2,305 due the Breathitt County Fiscal Court. In addition, another office employee received a total of \$1,650 for unearned salary benefits. All of her cash advances have been repaid. We recommend the Sheriff cease compensation of unearned salary benefits. We will refer this matter to the County Attorney and to the Breathitt County Fiscal Court (comment 2008-1).

*Sheriff's Response: All cash advances were stopped immediately by the Sheriff after talking with the auditors. The cash advances for the former bookkeeper that has not been repaid has been referred to the County Attorney and to the Breathitt County Fiscal Court.*

2008-4 The Sheriff Should Pay Overtime At A Rate Of Time And One Half

The Fair Labor Standards Act (FLSA) requires that all covered, nonexempt employees be paid overtime pay at a rate of not less than one and one-half times an employee's regular rate of pay after 40 hours of work in a workweek. Overtime pay earned in a particular workweek must be paid on the regular payday for the pay period in which the wages were earned. Earnings may be determined on a salary basis, but in all such cases the overtime pay due must be computed on the basis of the average hourly rate derived from such earnings. This is calculated by dividing the total pay for employment in any workweek by the total number of hours actually worked. The overtime requirement may not be waived by agreement between the employer and employees. The FLSA does not define full-time employment or part-time employment. This is a matter generally to be determined by the employer. Whether an employee is considered full-time or part-time does not change the application of the FLSA. During our audit, we noted seven employees earned more than 200 hours overtime that was paid at a rate of less than one and one-half times their regular rate of pay. We also noted two employees received pay for overtime hours at rates greater than one and one-half times their regular rate of pay. We recommend the Sheriff become compliant with the FLSA and state laws including payment of overtime at a rate of not less than one and one-half times an employee's regular rate of pay after 40 hours of work in a workweek.

*Sheriff's Response: The new bookkeeper and the Sheriff will make sure that they are in compliance with the Fair Labor Standards Act and state laws regarding payment of overtime. The new bookkeeper has been working closely with the Labor Board and all overtime due the employees will be paid.*

2008-5 The Sheriff Should Maintain Proper Personnel Files And Monitor Payroll For Accurate Compensation

Every employer covered by the Fair Labor Standards Act (FLSA) must keep certain records for each covered, nonexempt worker. There is no required form for the records, but the records must include accurate information about the employee and data about the hours worked and the wages earned.

BREATHITT COUNTY  
 RAY CLEMONS, SHERIFF  
 COMMENTS AND RECOMMENDATIONS  
 For The Year Ended December 31, 2008  
 (Continued)

STATE LAWS AND REGULATIONS: (Continued)

2008-5    The Sheriff Should Maintain Proper Personnel Files And Monitor Payroll For Accurate Compensation (Continued)

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According to the FLSA, the following is a listing of basic records an employer must maintain:

- Time and day of week when employee's workweek begins;
- Hours worked each day and total hours worked each workweek (timesheets);
- Basis on which employee's wages are paid;
- Regular hourly/salary pay rate;
- Total daily or weekly straight-time earnings;
- Total overtime earnings for the workweek;
- All additions to or deductions from the employee's wages;
- Total wages paid each pay period;
- Date of payment and the pay period covered by the payment

During our audit, we noted the Sheriff did not maintain a complete personnel file or documentation of regular hourly and salary pay rates for his bookkeeper. Furthermore, the Sheriff did not require the bookkeeper to maintain timesheets recording hours worked and leave balances. Timesheets provide documentation of hours worked to ensure compliance with wage and hour laws as well as to determine eligibility for the County Employee Retirement System. We recommend the Sheriff maintain complete personnel files that properly document payroll and that the Sheriff regularly monitor payroll.

*Sheriff's Response: The new bookkeeper is working on the personnel files to make sure they contain the accurate information on each employee, the hours worked and wages earned, etc. Therefore, being in compliance with the Fair Labor Standards Act. Timesheets will be closely checked by the Bookkeeper and the Sheriff and the Sheriff will sign all timesheets.*

2008-6    The Sheriff Should Prepare Accurate Payroll Reports And Pay Withholdings In A Timely Manner

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The Sheriff did not report or remit a total of \$124 of local taxes withheld from employees' wages. This total includes \$62 local taxes due to the City of Jackson and \$62 local taxes due to the county. Also, the employee wage and tax statements (i.e. W-3, W-2, K-3 and K-2) appear to be inaccurate. The W-2 forms of three employees do not accurately present gross salaries for 2008. The three inaccurate W-2's were understated, totaling in excess of \$5,600. Furthermore, the Sheriff paid a total of \$1,550 to two individuals for contract labor that should have been reported as taxable income. The Internal Revenue Service requires a form 1099 be issued to individual contractors for services resulting in income of \$600 or more. As the trustee/agent, the Sheriff is responsible for reporting and remitting taxes and withholdings to the appropriate agencies in a timely manner. Failure to report and pay withholdings timely could result in penalties being assessed to the Sheriff. Penalties are not allowable expenses of the Sheriff's office. Furthermore, inaccurate employee wage and tax statements could result in inaccurate withholdings. We recommend the Sheriff remit all local payroll withholdings due for 2008. We also recommend the Sheriff implement procedures to assure the employee wage and tax statements are properly prepared and that withholdings are paid in a timely manner. Furthermore, we recommend the Sheriff take steps necessary to assure 1099's and amended W-2's are prepared and submitted.



BREATHITT COUNTY  
RAY CLEMONS, SHERIFF  
COMMENTS AND RECOMMENDATIONS  
For The Year Ended December 31, 2008  
(Continued)

STATE LAWS AND REGULATIONS: (Continued)

2008-6    The Sheriff Should Prepare Accurate Payroll Reports And Pay Withholdings In A Timely Manner (Continued)

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*Sheriff's Response: The new Bookkeeper will correct the three W-2's and issue required 1099's. The new Bookkeeper will assure W-2's and 1099's are prepared correctly.*

2008-7    The Sheriff Should Properly Account For Retirement

During the course of our audit, we noted the Sheriff failed to withhold and remit a total of \$665 to the retirement system. This total includes \$757 that was not withheld from employees' checks and \$92 that was wrongfully withheld and remitted from the Sheriff's checks. Failure to properly withhold retirement could affect employees' future benefits. We recommend the Sheriff ensure all eligible employees participate in the County Employee Retirement Systems (CERS) and that withholdings are paid in a timely manner. We also recommend the Sheriff contact the retirement system to determine the steps necessary to correct these issues.

*Sheriff's Response: The new Bookkeeper will ensure that all eligible employees will be enrolled in the retirement system and all withholdings will be paid in a timely manner. The Sheriff does not wish a refund of \$92.00 from the retirement system.*

2008-8    The Sheriff Should Correct State And Federal Withholding Errors

The taxable wages withholdings reported to the IRS on the Sheriff's 941 forms for Social Security and Medicare (FICA) were understated by approximately \$5,400 during 2008. This was determined by comparing the Sheriff's payroll summaries to the 941 forms for accuracy. Also, there were 22 checks totaling \$10,562 paid to deputies from which no federal withholdings were withheld. The Internal Revenue Service is due approximately \$2,273 for employee federal withholdings. This total includes \$531 of FICA and \$1,742 of federal taxes that were not withheld from employees' checks for 2008. Additionally, the Sheriff understated gross wages on the K-1's by approximately \$7,735. The Kentucky State Treasurer is due an additional \$586 state withholdings for 2008. This total includes \$21 withheld from employees' checks and \$565 not withheld from employees' checks. We recommend the Sheriff take steps necessary to correct these payroll issues. Necessary steps may include amending reports, collecting refunds and paying taxes due and may require the help of a tax professional.

*Sheriff's Response: New Bookkeeper will submit amended 941's and K-1's.*

BREATHITT COUNTY  
RAY CLEMONS, SHERIFF  
COMMENTS AND RECOMMENDATIONS  
For The Year Ended December 31, 2008  
(Continued)

STATE LAWS AND REGULATIONS: (Continued)

2008-09 The Sheriff Should Comply With Applicable Laws And Regulations Over Payroll

During our testing of the Sheriff's payroll, we were unable to verify its accuracy and noted several significant non-compliances with applicable laws and regulations regarding payroll. Based on this information, we question the accuracy and appropriateness of wages and withholdings reported to federal, state and local agencies (i.e. Forms 941, 1099 and W-2). We will refer these matters to the U. S. Department of Labor, Internal Revenue Service, Kentucky Department of Labor, Office of Workplace Standards, Kentucky Retirement System, Social Security Administration, County Attorney, Fiscal Court, and the Department of Revenue for review. Depending on the final resolution of these matters, contributions may be due from the Sheriff and his deputies. If the Sheriff's office is assessed penalties and/or interest for late payments or late reporting, the Sheriff should pay these from personal funds.

*Sheriff's Response: As stated above the issues concerning the accuracy of the payroll, has been referred to the various departments/agencies. Any action by us will depend on their determinations. In the future, the new bookkeeper will ensure that the payroll is accurate and in compliance with applicable laws and regulations.*

2008-10 The Sheriff Had \$122 In Disallowed Expenditures In His 2008 Fee Account

All expenditures of the Sheriff's fee account should be necessary for the operation of the Sheriff's office, should not be personal in nature, and should be adequately documented. Our procedures revealed the Sheriff paid \$122 in penalties and interest resulting from withholdings not being paid in a timely manner. We recommend the Sheriff monitor expenditures to assure the all are allowable. We also recommend the Sheriff deposit personal funds of \$122 into the 2008 fee account to repay disallowed expenditures.

*Sheriff's Response: The new Bookkeeper and the Sheriff will monitor all expenditures to make sure they are allowable and that all withholdings are paid on time. The Sheriff will make arrangements to deposit \$122.00 in the fee account.*

2008-11 The Sheriff Should Require Employees Handling Public Funds To Be Bonded

KRS 65.067 states, "All officers, officials, and employees of cities, counties, urban-county governments, charter county governments, and special districts who handle public funds in the execution of their duties shall give a good and sufficient bond to the local governing body for the faithful and honest performance of his or her duties and as security for all money coming into that person's hands or under that person's control." During our audit, we noted that one full-time and one part-time office employee who handled public funds were not bonded the majority of 2008. The full-time employee entered into a bond agreement effective August 4, 2008. The part-time employee entered into a bond agreement effective September 26, 2008. Failure to obtain a bond places public funds at risk. We recommend the Sheriff require all employees that have access to public funds be bonded. The bond amount shall be based upon the maximum amount of public funds the employee handles at any given time during a fiscal year cycle.

*Sheriff's Response: This will no longer be an issue since all employees who handle public funds will be bonded.*

BREATHITT COUNTY  
RAY CLEMONS, SHERIFF  
COMMENTS AND RECOMMENDATIONS  
For The Year Ended December 31, 2008  
(Continued)

STATE LAWS AND REGULATIONS: (Continued)

2008-12 The Sheriff Should Abide By The County's Code Of Ethics

KRS 65.003 (3)(c) requires that each code of ethics' ordinance adopted contain a provision which sets forth "[a] policy on the employment of members of the families of officials or employees of the . . . county . . . as specified in the code of ethics." Breathitt County's Code of Ethics states, "a spouse or child of a county officer shall not be initially employed or appointed to a position in a government agency in the same county in which the officer serves." During our audit, we noted that the Sheriff's wife was bonded as a Deputy Sheriff/Court Bailiff after appointment of the Sheriff. We also noted his daughter worked part-time as Office Personnel during the last months of calendar year 2008. We recommend that the Sheriff abide by the County's Code of Ethics in the future and consult with the Ethics Commission to determine any actions necessary to resolve this issue.

*Sheriff's Response: The Ethics Commission approved the employment of the Sheriff's Daughter to work in the Sheriff's office and the Sheriff's wife to work as a Deputy Sheriff/Court Bailiff. The Sheriff will abide by the County's Code of Ethics in the future.*

2008-13 The Sheriff Should Accurately Report Employees To Insurance Providers

Our testing indicated eight employees of the Sheriff's office were not covered on the County's Worker's Compensation Insurance Policy. Additionally, five employees were not covered on the County's Unemployment Insurance Policy. We recommend the Sheriff accurately report employees to the county's insurance providers.

*Sheriff's Response: The Sheriff and Bookkeeper are working with the County Attorney and County Treasurer to correct the above deficiency. In the future, all employees will be reported to the insurance provider.*

INTERNAL CONTROL - MATERIAL WEAKNESSES:

2008-14 The Sheriff's Office Lacks Adequate Segregation Of Duties

The Sheriff's office lacks adequate segregation of duties due to the responsibilities of recording, depositing, and reconciling cash being delegated to the same individual. The functions of receiving, recording, depositing, and reconciling cash should be separated whenever possible in order to decrease the risk that errors, misstatements, and/or fraud will occur and go undetected. Since only one person performs most of these functions, there is no assurance that financial transactions are accurate, complete, and free of error/misstatement. We recommend the Sheriff segregate the duties of recording, depositing, and reconciling cash or implement and document compensating controls to offset this control deficiency. Examples of compensating controls include: the Sheriff comparing daily checkout sheets to receipts ledger and bank deposits; reviewing bank reconciliations for accuracy; performing surprise cash counts; reviewing invoices prior to payment; and reviewing all financial reports. The Sheriff should document his review process by initialing reports and supporting documentation.

*Sheriff's Response: Lack of staff prevents segregation of duties. The bookkeeper and her assistant work closely together and during tax season they double-check each other's work. All monies collected for fees/services by the assistant is rechecked by the bookkeeper and deposited. The Sheriff will begin initialing reports and documents that he reviews.*

BREATHITT COUNTY  
RAY CLEMONS, SHERIFF  
COMMENTS AND RECOMMENDATIONS  
For The Year Ended December 31, 2008  
(Continued)

INTERNAL CONTROL - MATERIAL WEAKNESSES: (Continued)

2008-15 The Sheriff Should Closely Monitor The Daily Activities Of His Office

During audit procedures, we noted the former bookkeeper was able to manipulate and falsify accounting records, resulting in monies being stolen from the Sheriff's office. Adequate segregation of duties, compensating controls, or actively monitoring daily office activities could have detected or prevented this from occurring.

We also noted the Sheriff did not review or maintain adequate oversight of fuel purchases. The current fuel purchase process involves several methods including: (1) employees charging fuel at stations and signing a gas ticket; (2) employees charging fuel and documenting on an incomplete fuel log at the station that is not supported by individual fuel purchase tickets; (3) employees getting reimbursed for fuel purchases; and (4) employees purchasing gas with a fleet card system. With the use of all these methods, maintaining adequate controls over deputies' fuel purchases and determining if all expenditures are allowable is extremely difficult. By not reviewing or maintaining proper oversight of these purchases, the Sheriff did not ensure the accuracy or reasonableness of amounts billed and charged by the deputies. We recommend the Sheriff implement steps to adequately safeguard against the potential for fraudulent gasoline purchases. A fuel log should be required for all deputies for business related travel. Fuel logs should contain a vehicle identification number on all transactions, odometer reading, gallons purchased, and officer identification. These logs should be compared to invoices on a monthly basis. Upon completion of the comparisons, discrepancies should be investigated. The Sheriff should also ensure fuel purchases are for official vehicles only. When official travel is done using a personal vehicle, requests for mileage reimbursement should include specific date, time, and purpose of travel. Since the Sheriff's office has already established a fleet card system, we recommend that system be fully implemented for all fuel purchases. Each employee should be assigned a fleet card and be fully accountable for all fuel purchased on that card.

Additionally, we noted the Sheriff had a signature stamp he allowed to be used on several documents. Auditors determined no safeguards were in place to protect the Sheriff from fraudulent or unallowable transactions. We recommend the Sheriff maintain possession of his signature stamp and prohibit its use on payroll documentation.

We recommend the Sheriff closely monitor the daily activities of his office.

*Sheriff's Response: The Sheriff is aware of the need for closer supervision of fuel purchases. Use of the fleet card will be utilized more and receipts will be required with other purchase. The Sheriff signs every check that is written and is aware of every invoice that is paid. The new bookkeeper makes sure of this. The Sheriff's signature stamp was destroyed on 06-18-09.*

